IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 24857 of 2007(H)

PETITIONERS:

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1. M.K.KAREEM SAHIB, AGED 54 YEARS,
   S/O. M.M.KASSIMKUTTY, PALLITHEKKETHIL HOUSE,
   MULAKKUZHA P.O., CHENGANNUR, ALAPPUZHA DIST.,
   (ACCOUNTS OFFICER ON DEPUTATION DISTRICT PROJECT
   OFFICER, SSA, THEVALLY DEPARTMENT OF EDUCATION,
   KOLLAM).

2. P.S.JOSE, AGED 55 YRS, S/O. LATE
   P.J.SEBASTIAN, PUTHUPARAMBIL KOCHINCHERIL, JOSE
   VILLA, KAVUMBHAGOM P.O., THIRUVALLA,
   PATHANAMTHITTA DIST. (DEPUTY TRANSPORT
   COMMISSIONER, DEPARTMENT OF MOTOR VEHICLES, SOUTH
   ZONE TRANS TOWER, VAZHUTHACADU, TRIVANDRUM.

3. N.BHASI, AGED 54 YEARS, S/O. NANU,
   KANAKA SADANAM, PUTHAMKULAM P.O., KOLLAM DISTRICT,
   (BLOCK PROGRAMME OFFICER, SSA BRC, CHATHANUR,
   DEPARTMENT OF EDUCATION, KOLLAM.)

4. B.SOMASEKHARAN UNNITHAN, AGED 55 YEARS,
   S/O. LATE BHASKARAN PILLAI, ILAMPADATHU HOUSE,
   PULLIKANAKKU P.O., KAYAMKULAM.
   (DEPUTY SUPERINTENDENT OF POLICE, CBCID,
   DEPARTMENT OF HOME, KOLLAM.)

5. V.H.MUHAMMED EASA SAHIB, AGED 55 YEARS,
   S/O. V.K.HAMEED, ISLAMIYA BUILDING,
   NARANGANAM NORTH P.O., PATHANAMTHITTA DISTRICT,
   (DIRECTOR, KERALA STATE POLICE FINGER PRINT
   BUREAU, DEPARTMENT OF HOME, PATTOM,
   THIRUVANANTHAPURAM-4).

6. P.V.KALESH, AGED 54 YEARS,
S/O. P.K.VIJAYABHANU, TC 23/1115, SREESYLAM,
VALIYASALA P.O., THIRUVANANTHAPURAM,
(CHIEF PHOTOGRAPHER, KERALA STATE POLICE PHOTOGRAPHIC BUREAU, DEPARTMENT OF HOME, PATTOM,
THIRUVANANTHAPURAM-4).

7. M.CHANDRASEKHARAN NAIR, AGED 54 YEARS,
S/O. K.MADHAVAN NAIR, PORNAMI, TC 7/934-3,
PANGODE, KANJIRAMPARA P.O., THIRUVANANTHAPURAM-685 030, (DIRECTOR, SHORT HAND BUREAU, SBCID,
HEAD QUARTERS, PATTOM, THIRUVANANTHAPURAM-4).

8. B.MUHAMMED UNNI, AGED 55 YEARS,
S/O. MUHAMMED MASTER, KILIKKODE HOUSE,
MONGAM P.O., MALAPPURAM-673 692.
(JOINT R.T.O., O/O DEPUTY TRANSPORT COMMISSIONER,
DEPARTMENT OF MOTOR VEHICLES, TRANS TOWER,
VAZHUTHACADU, THIRUVANANTHAPURAM.

BY ADV. SMT.S.K.DEVI
SRI.K.P.PRADEEP (PAYYANNUR)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. UNION OF INDIA, REPRESENTED BY
ITS CABINET SECRETARY, SARDAR PATEL BHAVAN,
SANSAD MARG, NEW DELHI-100 001.

BY GOVT. PLEADER SRI.NANDAKUMAR FOR R1
ASST. S.G. SRI.PARAMESWARAN NAIR FOR R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Antony Dominic, J.

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W.P(C).No.24857 of 2007

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Dated this the 16th day of August, 2007.

JUDGMENT

Petitioners are employees of the Government of Kerala, whose designations are also shown in the cause title itself. The main prayer in this Writ Petition is to declare that Rule 60(a) of the Kerala Service Rules, 1959 to the extent of retaining compulsory retirement age at 55 years to be illegal and unconstitutional, as according to the petitioner, it offends the mandates of Articles 14, 15, 16 and 19(1)(g) of the Constitution. They are also seeking a further prayer to direct the first respondent to take immediate steps to increase the upper age limit for compulsory retirement of public servants to 58 years, in compliance of the recommendations of the 8th Pay Revision Commission report. Consequential reliefs are also sought for in order to maintain uniformity and equality through out the country.

2. As admitted by the petitioners, they are employees of the

Government of Kerala. They are voverned by the provisions of Kerala Service Rules and as Rule 60(a) now stands, they have to retire on attaining the age of 55 years.

3. Petitioners plead discrimination. Petitioners' complaint is that under Rule 56(a) of the Fundamental Rules, the age of retirement for the Central Government employees is 60 years. It is also stated that in all other States except the State of Jammu and Kashmir, the age of retirement is 58 years. Petitioners also contend that in majority of the Statutory Corporations and Government Companies of both Government of India and Government of Kerala, the age of retirement is 60 years. On this basis, petitioner complains that they are being discriminated.

4. It is settled law that Article 14 applies only if there is discrimination among a class of persons and it is not their case that among the class of State Government employees to which the petitioner belongs there is any classification or discrimination in the matter of age of retirement. The employees of the other State Governments and Central Government from separate classes of its own, governed by separate rules and conditions of service. Petitioners do not belong to that class to plead

discrimination or claim parity. The employees of Government Corporations and Companies form separate classes themselves and since the petitioners do not belong to that class of employees who enjoy the retirement age of 58 years or 60 years, they cannot complain that they are being discriminated in the matter of age of retirement. Therefore, I do not find any substance in the contention that any of their fundamental rights is violated in the fixation of age of retirement at 55 years for the employees of the Government of Kerala.

5. Petitioner relied on Ext.P1, extract of the report submitted by the Pay Revision Commission. It is stated that there is a recommendation for the enhancement of the age of retirement from 55 years to 58 years. It is true that the Pay Revision Commission has made such a recommendation as is discernible from Ext.P1 itself. But even the petitioners do not have a case that this recommendation has been accepted or implemented by the State Government. Learned Government pleader informs me that a Writ Petition was filed before this Court as W.P.(C) No.8860 of 2006 contending that based on Ext.P1 the State Government employees are entitled to continue in service

upto 58 years and that the Writ Petition was dismissed by a learned single judge, which was affirmed by a Division Bench of this Court in W.A.No.656 of 2006. Therefore the argument relying on Ext.P1 is of no substance.

6. I do not find that there is any discrimination or any illegality in retaining the age of retirement at 55 years for the employees of the first respondent and it is a matter entirely within the domain of the appointing authority. Absolutely no grounds have been made out to declare that the age of retirement under Rule 60(a) of the Kerala Service Rules is vitiated on any of the grounds urged by the petitioners.

Writ Petition lacks merit and it is only to be dismissed. I do so.

Antony Dominic,
Judge.

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